

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JOSE HERNANDEZ; KEITH GURGUI;
RASHETA BUNTING; KAREN LUXTON
GOURGEY, ED.D; DISABILITY RIGHTS
NEW YORK; NATIONAL FEDERATION
OF THE BLIND OF NEW YORK STATE,
INC.; AMERICAN COUNCIL OF THE
BLIND OF NEW YORK, INC.; and
CENTER FOR INDEPENDENCE OF THE
DISABLED, NEW YORK,

CASE NO: _____

**PLAINTIFFS' MOTION FOR
TEMPORARY RESTRAINING ORDER
AND PRELIMINARY INJUNCTION**

Plaintiffs,

-against-

THE NEW YORK STATE BOARD OF
ELECTIONS, DOUGLAS A. KELLNER,
Co-Chair and
Commissioner, ANDREW SPANO,
Commissioner, PETER S. KOSINSKI, Co-
Chair and Commissioner, TODD D.
VALENTINE, Co-Executive Director, and
ROBERT A. BREHM, Co-Executive
Director, in their official capacities at the
New York State Board of Elections,
Defendants.

**PLAINTIFFS' MOTION FOR A TEMPORARY RESTRATING ORDER AND
PRELIMINARY INJUNCTION**

NOW COME Plaintiffs, JOSE HERNANDEZ, KEITH GURGUI, RASHETA
BUNTING, KAREN LUXTON GOURGEY, ED.D, DISABILITY RIGHTS NEW YORK,
NATIONAL FEDERATION FOR THE BLIND OF NEW YORK, INC., AMERICAN
COUNCIL FOR THE BLIND OF NEW YORK; and CENTER FOR INDEPENDENCE OF
THE DISABLED, NEW YORK (Plaintiffs), by and through undersigned counsel, and hereby
move this Honorable Court for a Temporary Restraining Order and Preliminary Injunction

pursuant to Federal Rule of Civil Procedure 65 in order to prevent irreparable injury to Plaintiffs. Defendants NEW YORK STATE BOARD OF ELECTIONS, DOUGLAS A. KELLNER, Co-Chair and Commissioner, ANDREW SPANO, Commissioner, PETER S. KOSINSKI, Co-Chair and Commissioner, TODD D. VALENTINE, Co-Executive Director, and ROBERT A. BREHM, Co-Executive Director, in their official capacities at the New York State Board of Elections, have refused to make New York State's Absentee Voting program accessible for New York voters with print disabilities, in violation of Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12131, *et seq.* and Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 *et seq.* In support of this motion, Plaintiffs rely on the Complaint, the attached Memorandum of Law, the attached Declarations, and the attached Exhibits.

WHEREFORE, for all the reasons set forth in this Motion, the Complaint, and Memorandum of Law, Declarations, and Exhibits, Plaintiffs hereby request that this Honorable Court order Defendants to immediately implement an absentee ballot that is accessible and completed independently and privately by Plaintiffs and individuals who have print disabilities before the June 23, 2020 Primary Election, to bring Defendants' Absentee Voting program into compliance with Federal Law.

Respectfully submitted,

By: /S/ Amanda B. Pearlstein

Amanda B. Pearlstein
Christina Asbee
DISABILITY RIGHTS NEW YORK
25 Chapel Street, Suite 1005
Brooklyn, NY 11201
Phone: 518-512-4841

Fax: 518-427-6561 (not for service)
Amanda.Pearlstein@drny.org
Christina.Asbee@drny.org

Michelle Caiola
Christina Brandt-Young
DISABILITY RIGHTS ADVOCATES
655 Third Avenue, 14th Floor
New York, NY 10017
Tel: (212) 644-8644
Fax: (212) 644-8636
mcaiola@dralegal.org
cbrandt-young@dralegal.org

Eve Hill*
Sharon Krevor-Weisbaum*
Brown Goldstein & Levy, LLP
120 E. Baltimore Street, #1700
Baltimore, MD, 21202
Tel.: (410) 962-1030
Fax: (410) 385-0869
EHill@browngold.com
skw@browngold.com
**Pro hac vice* pending

Attorneys for Plaintiffs